



# Debt Collection 101 for Payment Agencies



# What is a Debt?

A debt is any amount that is owed to the United States by a person, organization, or entity other than a Federal agency. Some examples are:

- Loans (direct, insured & guaranteed)
- Overpayments
- Amounts the U.S. is authorized to collect for another person
- Fines and penalties



# What is an Offset?

## Definition:

- Withholding funds payable by the United States to a person to satisfy a debt
- In other words, the government intercepts or withholds monies due to a person (or held by the government for that person) to collect money owed to the government



# What is Centralized Offset?

There are two methods of Offset:

- **Centralized** offset is done by the Treasury Offset Program (TOP) operated by FMS
- **Non-centralized** offset is done by the Federal agency internally on a case-by-case basis



# Is Offset Mandatory?

**YES!**

- Debts delinquent more than 180 days must be sent to FMS for centralized offset
- Agencies are required to notify Treasury of delinquent debts, and disbursing officials are required to offset payments
- Types of payments which may be offset:

Tax refunds, salary, military and civilian retirement pay, contractor payments, grant payments, tax overpayments, benefit payments, travel reimbursement, and other Federal payments.



# Does an Agency Have to Try to Collect a Delinquent Debt?

**YES!!!!**

Agencies have a statutory duty to try to collect delinquent debts owed from the public.



# How do Laws, Regulations and Guidance Apply to Debt Collection?

## The Debt Collection Authority Hierarchy

### STATUTES

Agency Statutes

Federal Claims Collection Act

Debt Collection Act of 1982

Deficit Reduction Act of 1984

Debt Collection Improvement Act of 1996

### REGULATIONS

Agency Regulations

Treasury Regulations (31 CFR part 285)

OPM Salary Offset Regs (5 CFR part 550)

Federal Claims Collection Standards (31 CFR parts 900-904)

OMB Circular No. A-129

### GUIDANCE

Managing Federal Receivables

Agency Policies

Guide to the Federal Credit Bureau Program



# Government-wide Regulatory References

## Voluntary Payment

- Notice to the Debtor – Demand for Payment
- Lump Sum Payments/Installments
- Compromise

FCCS (31 CFR 901.2)  
FCCS (31 CFR 901.8)  
FCCS (31 CFR Part 902)

## Involuntary Collection

- Collateral liquidation
- Interest, Penalty, Administrative Cost
- **Offset**
- Reporting to Credit Bureaus, etc.
- Private Collection Agencies
- Administrative Wage Garnishment
- Litigation
- Barring Delinquent Debtors
- Cross-servicing

FCCS (31 CFR 901.7)  
FCCS (31 CFR 901.9)  
**Multiple (see next slide)**  
FCCS (31 CFR 901.4)  
FCCS (31 CFR Part 901.5)  
FMS Regulations (31 CFR 285.11)  
FCCS (31 CFR Part 904)  
FMS Regulations (31 CFR 285.13)  
FMS Regulations (31 CFR 285.12)

## Unable to Collect

- Termination of Collection Action
- Write-off
- 1099-C Reporting to IRS

FCCS (31 CFR Part 903)  
OMB Circular No. A-129  
IRS Regulations (26 CFR 1.6050P-1)





# Government-wide Regulatory References Offset

Offset In General	FCCS (31 CFR 901.3)
Non-Centralized Offset	FCCS (31 CFR 901.3(c))
Centralized Offset at FMS	FCCS (31 CFR 901.3(b)) FMS Regulations (31 CFR 285.5)
Tax Refund Offset	FMS Regulations (31 CFR 285.2)
Benefit Payment Offset	FMS Regulations (31 CFR 285.4)
Salary Offset	OPM Regulations (5 CFR 550.1101-1110) and 31 CFR 285.7



# What are the Steps in Trying to Collect a Delinquent Debt?

- Seek Voluntary Repayment
- Initiate Involuntary Collection Action
- Take Appropriate Action on Uncollectible Debt



# Treasury Offset Program



# What is the Treasury Offset Program (TOP)?

- TOP is a centralized offset process that intercepts Federal payments of payees who owe delinquent debts to agencies that have submitted debt information to FMS

Offset is withholding funds payable by the United States to a person to satisfy a debt owed to the United States or to a state



Centralized offset is the offset of payments disbursed by FMS and other Federal disbursing agencies through the TOP



# What is the Treasury Offset Program?

- TOP is one of the largest and most effective tools in collecting delinquent debts for Federal and state agencies:
  - Debts owed to the United States (tax & non-tax)
  - Child support obligations enforced by state agencies; and
  - State income tax debts
- Collections total over **\$3 billion** per year



# How Does the Treasury Offset Program Work?

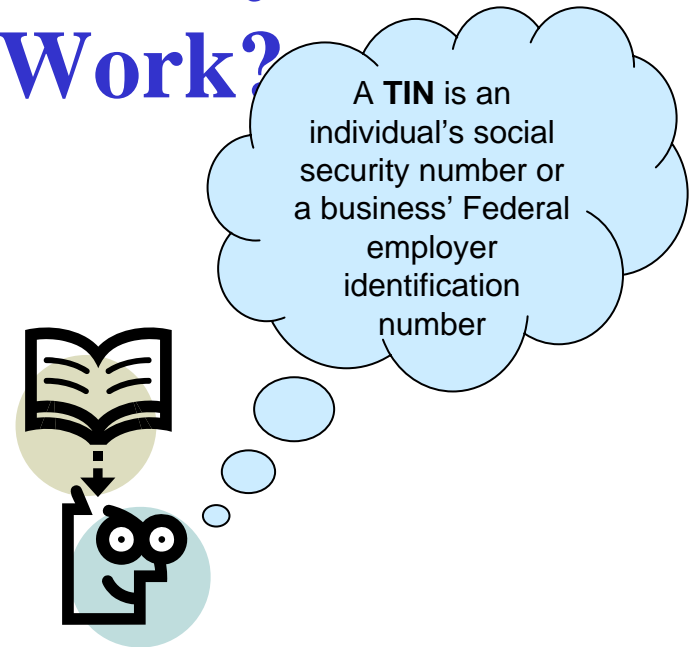
- Federal and state agencies submit eligible debts to TOP and certify that debts are valid, delinquent, and legally enforceable, and that all due process pre-requisites have been met
- Due process pre-requisites include:
  - 60-day prior notice to debtor
  - Opportunity to dispute the debt





# How Does the Treasury Offset Program Work?

- TOP compares payee names and taxpayer identifying numbers (TINs) on Federal payment certification vouchers to names and TINs of debtors in TOP's debtor database
- When a match occurs, TOP intercepts, or “offsets,” all or part of a payee's eligible Federal payments
- FMS notifies the payee and the payment agency about the offset



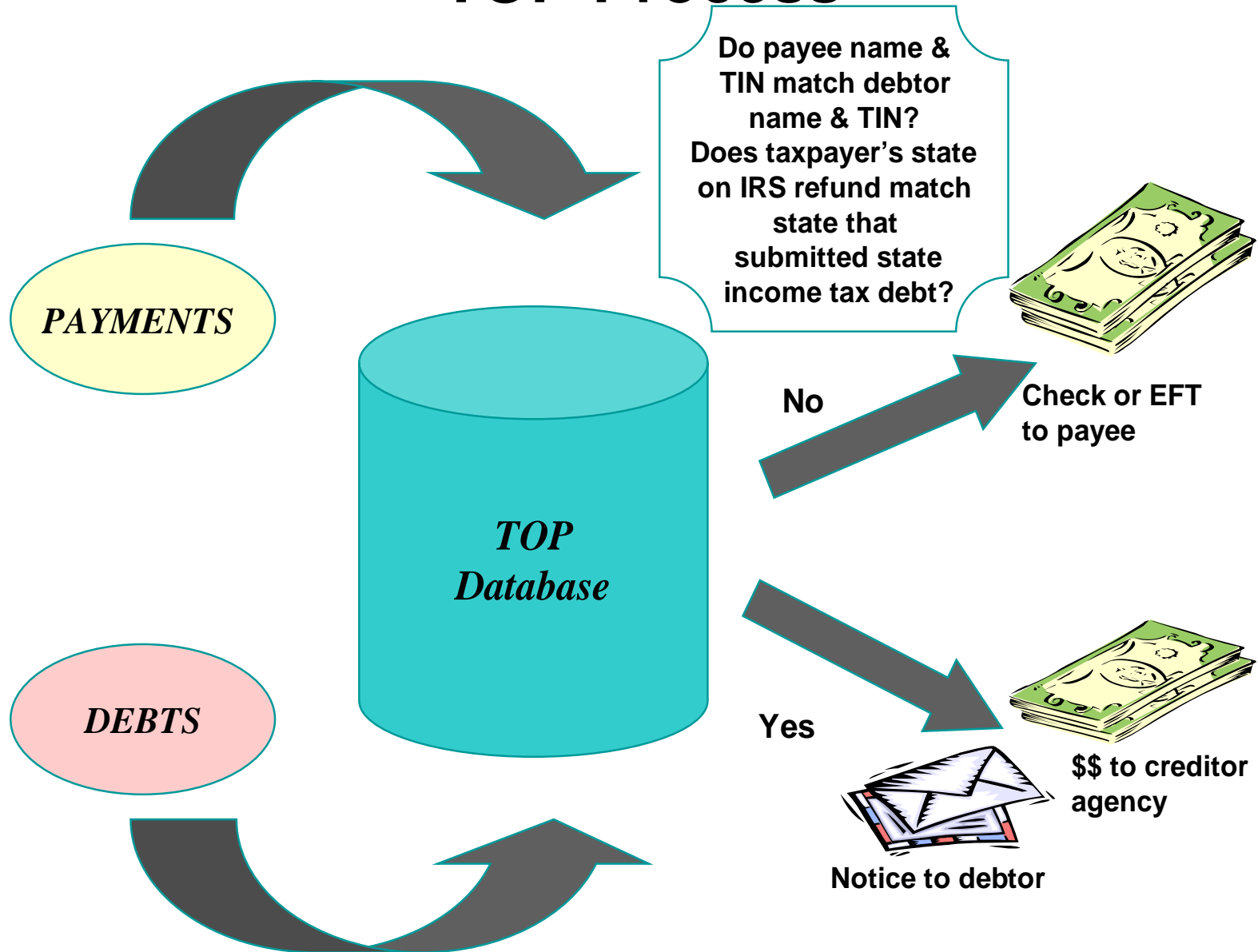


# How Does the Treasury Offset Program Work?

- Offset Notice contains:
  - Date and amount of offset
  - Agency to which money was sent
  - Point of contact at the agency
- FMS transmits the offset monies to the appropriate creditor agencies to be applied to the delinquent debts owed by the payee



# TOP Process





# Offset – Method Comparison

Method	Centralized	Non-centralized
<b>Due process</b>	Creditor Agency – must certify to FMS.	Creditor Agency – must certify to the paying agency.
<b>Locating the Payment</b>	FMS – By matching payment certifications with debts. ** Computer Matching Act waiver.	Creditor Agency **May have to comply with Computer Matching Act.
<b>Payment types</b> *generally exclusive to centralized offset	*Federal tax refunds; *current OPM retirement; salary; vendor; *benefit payments (SSA); travel advances and reimbursements; grants.	Those certified by the creditor agency (internal offset); payments not included in centralized offset.
<b>Conducting the Offset</b>	FMS	Payment Certifying Agency
<b>Notifying the debtor/Accounting for the offset</b>	FMS	Payment Certifying Agency



# Barring Delinquent Debtors

- Under the DCIA, delinquent debtors are ineligible for financial assistance in the form of a Federal loan or loan guaranty/insurance, until the delinquency is resolved
- Loan granting, guarantying and/or insuring agencies are required to bar delinquent debtors



# Barring Delinquent Debtors

## Agency Responsibilities:

- Conduct all due process as quickly as possible (including any requested hearings or appeals)
- Report delinquent debts to credit bureaus and Federal delinquent debtor databases (CAIVRS and Debt Check)
- Be aware that delinquent debtors who are applicants for loans or loan guaranties/insurance may contact the agency to resolve their delinquent debts in order to remove the bar



# Other Delinquent Debtor Databases

Other Federal delinquent debtor databases are available for Federal agencies to assist them in barring delinquent debtors from loans and loan guarantees

- **CAIVRS** – Maintained by the Department of Housing and Urban Development
- **Debt Check** – FMS' TOP delinquent debtor database extract



# TOP Legal Authorities

Various statutes govern the TOP process depending upon the type of payment offset and the type of debt collected



## TREASURY OFFSET PROGRAM - LEGAL AUTHORITIES

<u>Type of Payment Offset/Levy</u>	<u>Type of Debt Collected</u>	<u>Statutory Authority</u>	<u>Regulatory Authority</u>	<u>Amount Deducted</u>
Federal tax refund	Federal non-tax debts	26 U.S.C. 6402(d) 31 U.S.C. 3701 & 3720A	31 CFR 285.2 Creditor agency regulations	100%
Federal tax refund	Child support debts	26 U.S.C. 6402(c) 42 U.S.C. 664	31 CFR 285.3 45 CFR 303.72 HHS procedures	100%
Federal tax refund	State income tax debts	26 U.S.C. 6402(e)	31 CFR 285.8	100%
Social Security, Black Lung, & Railroad Retirement (benefit payments)	Federal non-tax debts (may not be offset to collect child support or other debts owed to States)	31 U.S.C. 3701 & 3716	31 CFR 285.4	Lesser of 15%, or amount over \$750
Federal salary payments	Federal non-tax debts	5 U.S.C. 5514 31 U.S.C. 3701 & 3716 42 U.S.C. 404(f) (for Social Security debts)	5 CFR 550.1101 31 CFR 285.7 Creditor agency regulations	15%
Federal salary payments	Child support debts	15 U.S.C. 1673(b)(2) 31 U.S.C. 3701 & 3716(h)	31 CFR 285.1 State law & regulations HHS procedures	50%-65%
Federal non-tax, non-salary, non- benefit (includes civil service retirement)	Federal non-tax debts	31 U.S.C. 3701 & 3716 42 U.S.C. 404(f) (for Social Security debts)	Federal Claims Collection Standards (31 CFR Parts 900- 904) 31 CFR 285.5 Creditor agency regulations	100%, except as otherwise provided by law (25% for retirement)
Federal non-tax, non-salary, non- benefit (includes civil service retirement)	Child support debts	31 U.S.C. 3701 & 3716(h)	31 CFR 285.1 State law & regulations HHS procedures Exec. Order 13019	100%, except as otherwise provided by law (25% for retirement)
Federal non-tax, non-benefit	State debts	31 U.S.C. 3701 & 3716(h)	FMS regulations to be published	100%, except as otherwise provided by law (15% for salary; 25% for retirement)
Tax levy of non-tax Federal payments	Federal tax debts	26 U.S.C. 6331(h) 26 U.S.C. 6103(k)(8) & (n)	26 CFR 6331-1 <i>et seq.</i>	15%



# Treasury Offset Program Payments





# TOP – Payments

- **Tax refund** payments may be offset up to 100%
- **Vendor** payments and **Federal employee travel advances & travel reimbursements** may be offset up to 100%
- **Salary** payments limited to 15% of disposable pay, except when collecting child support (limit increases to 50-65%)
- **OPM retirement** payments limited to 25%
- **Social security** and **Railroad retirement** payments limited to 15%



# TOP – Exemptions/Payments

- FMS presumes that all miscellaneous payments are legally subject to offset unless the Federal Agency indicates there is a legal bar to offsetting all or a portion of a payment.
- A list of payments currently exempt from offset is on the FMS Web Site at <http://www.fms.treas.gov/debt/dmexmpt.doc>



# TOP – Exemptions/Payments

- Payments exempted by law, e.g. student loan payments, veterans' benefits
- Payments exempted by Treasury
- Means-tested payments
- Non means-tested payments – if offset would tend to interfere with or defeat the purpose of the program



# Making a Miscellaneous Payment Eligible for Offset

- For Miscellaneous Agency ACH and Check Payment File Data Records
  - Fill in the TOP Eligibility Code Field with
    - “Blank” or “Y” = Offset
    - “N” = Do Not Offset



# Making a Miscellaneous Payment Eligible for Offset

- If the full payment amount is not legally eligible to be 100 percent offset, place an “N” in the TOP Eligibility Code Field.



# Benefit Payment Offset (BPO)



# Benefit Payment Offset (BPO)

- 60 and 30 Day Warning Letters are sent out
- Offset Letter sent out when offset occurs
- 15 % is the *Maximum* Amount that a beneficiary's benefit payment will be offset
- Amount of offset will be the lesser of the amount of the debt; an amount equal to 15% of the monthly benefit payment; or the amount by which the benefit payment exceeds \$750
- No payment \$750.00 and under will be offset
- Supplementary Security Income (SSI) payments are *NOT* subject to offset



# Centralized Salary Offset (CSO)





# What is Federal Employee Salary Offset?

**Federal agencies collect debts owed by a Federal employee through installment deductions from the employee's pay**

## **Salary Offset Limits**

15% of “disposable pay” for Federal non-tax debts



# What is Disposable Pay?

The dollar amount left after the following deductions:

- Tax levies
- Properly withheld taxes, FICA, Medicare
- Health and life insurance premiums
- Retirement contributions

*Does NOT include amounts deducted under a garnishment*



# What's Different for the Salary Offset Process?

- Minimum dollar amount for a debt referred for Salary Offset is \$100.00
- Salary Offset will always take the debt balance to zero
- Uses record types and reason codes to communicate between TOP, SPAs, and Creditor Agencies
- SPA can charge a one time administrative fee and/or a per offset fee plus the TOP offset fee



# Centralized Salary Offset

## Participating Salary Paying Agencies:

- ✓ Interior
- ✓ National Finance Center
- ✓ DoD-DFAS
- ✓ U.S. Postal Service
- ✓ GSA





# Non-Treasury Disbursing Office (NTDO) Vendor Offsets



# NTDO Vendor Offset Program

- Implemented with DOD in December 2002
- Not a real time process
- Potential to over collect the debt
- Agencies that will participate starting in 2007
  - ✓ **Postal Service**
  - ✓ **Army Corp of Engineers**
  - ✓ **Maryland**
  - ✓ **New Jersey**
  - ✓ **Kentucky**



# Treasury Offset Program Debts



# Priority of Debts in TOP

- IRS Income Tax Debts
- Child Support Debts (Temporary Assistance to Needy Families)
- Federal Non-tax Debts
- Other Child Support Debts (Non-TANF\*)
- State Income Tax Debts

\* Non-TANF debts will have the same priority as TANF debt by 2008





# Priority of Debts in TOP

- When more than one debt is submitted for the same debtor, TOP applies funds collected in accordance with priorities set by statute and policy
- If a debtor has two or more debts for the same priority, TOP applies funds to the oldest debt first



# General Rules For All Debts Submitted to TOP

(31 CFR Part 285, Subpart A)

- Debts must be:
  - Delinquent & legally enforceable
  - Less than 10 years old (except for judgment debts, student loans, and certain state income tax debts)
  - \$25 or more, except for salary which is \$100
- Federal agencies must submit delinquent debts to TOP, including debts owed by state & local governments



# General Rules For All Debts Submitted to TOP

- Creditor agency must submit certification with debts
  - Accomplished electronically if agency signs annual agreement to certify debts
  - Certified for the life of the debt; agency responsible for inactivating debts if they become ineligible for TOP (bankruptcy, debt paid in full)
- Certification states that debt meets eligibility requirements and that all due process pre-requisites, including state law pre-requisites, have been met



# General Rules For All Debts Submitted to TOP

- TOP sends warning notices to debtors for recurring payments (e.g., monthly retirement benefits)
- TOP sends notice of any offset to the debtor

Notice includes date and amount of offset, creditor agency to which offset money was sent, and contact point within the creditor agency

- States will send offset notices under Reciprocal Agreement Program
- NTDO agencies may choose to send their own offset notices



# Fees

Treasury charges a fee of \$17.00 for tax refund and administrative offsets



# TOP Debtor Database (as of December 2006)



**\$119.0 billion** → Federal tax debts

**\$85.7 billion** → Child support debts enforced by states

**\$37.0 billion** → Federal non-tax debts

**\$ 6.0 billion** → State income tax debts

**TOTAL \$\$ → \$247.9 billion**



# CY 2006 Collections



<b>Administrative Offsets</b>	<b>\$154.8 Million</b>
<b>Tax Refund Offset Child Support</b>	<b>\$1.6 Billion</b>
<b>Tax Refund Offset – Federal Nontax Debt</b>	<b>\$996.8 Million</b>
<b>Tax Refund Offset – State Income Tax Debt</b>	<b>\$218.5 Million</b>
<b>Tax Levy</b>	<b>\$324.9 Million</b>



# State Tax Program





# State Tax Program

- States can refer delinquent income tax debts to TOP for offset against tax refund payments only
- Currently 38 states and the District of Columbia participate in the program
- Special requirements for tax refund offset to collect state income tax obligations (26 U.S.C. 6402(e)):
  - States must send 60-day notice to debtors by *certified mail, return receipt requested*
  - Taxpayers must reside in the state to which the tax obligation is owed (based on address on Federal tax return for year of refund)



# State Reciprocal Program



# State Reciprocal Program

- States will refer debts to TOP for offset against Federal vendor payments and State payments will be matched against Federal debts
- Interim draft rule on Administrative Offset Under Reciprocal Agreements with States published in the Federal Register on January 11, 2007
- Pilot to begin in the second quarter of Calendar Year 2007 with Maryland, New Jersey and Kentucky





# How to Gain Access to the TOP Client



# Security Access Request Form

The Security Access Request Form is used to request access to the:

- TOP Client



# Security Access Request Form

Information needed on form:

- Employee Name, Agency Name & Address
- Type of access needed
- Access Method
- (SecurID or Network to Network)
- Supervisors Name
- FPA Security Point of Contact
- Operating System



# Security Access Request Form

If you forget your password call 202-874-HELP

Questions filling out the form call Katrina  
Gonzalez on 202-874-7626

**Mail original form only to:**

Department of the Treasury  
FMS, Treasury Offset Program  
401 14<sup>th</sup> Street S.W., Room 213B  
Washington, DC 20227  
Attn: Katrina Gonzalez



# Debt Management Operations Center





*Operates the National TOP Call Center  
1-800-304-3107  
CY2006 – 3 million calls*

*Callers are referred to creditor agency for–*

- Account balances
- Particular debt information
- Removal from TOP
- Adjustments or refunds



# Questions

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